

# United States District Court

for the  
Western District of New York

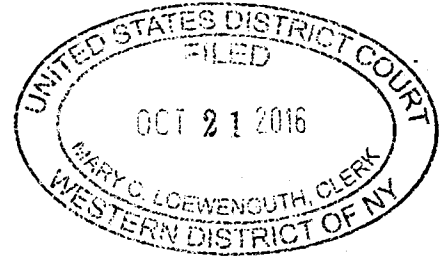
**United States of America**

v.

Case No. 16-M- 150

**RAYMOND WHELAN and DAVID NICHOLS**

*Defendants*



## CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date of October 2015, through on or about February 2016, in the County of Erie, in the Western District of New York, the defendants did conspire to import merchandise into the United States by means of fraudulent or false invoice and to traffic in counterfeit goods in violation of Title 18, United States Code, Sections 542, 2320 and 371.

This Criminal Complaint is based on these facts:

☒ Continued on the attached sheet.

A handwritten signature in black ink, appearing to be "Keara Jamieson".

*Complainant's signature*

**Keara Jamieson, Special Agent  
Homeland Security Investigations**

*Printed name and title*

Sworn to before me and signed in my presence.

Date: October 21, 2016

A handwritten signature in black ink, appearing to be "H. Kenneth Schroeder, Jr.".

*Judge's signature*

City and State: Buffalo, New York

**HON. H. KENNETH SCHROEDER, JR.  
United States Magistrate Judge**

*Printed name and title*

**AFFIDAVIT**

STATE OF NEW YORK     )  
COUNTY OF ERIE        )  
CITY OF BUFFALO        ) SS:

I, **Keara Jamieson**, being duly sworn, hereby depose and state as follows:

**INTRODUCTION AND AGENT BACKGROUND**

1. I am a Special Agent with the United States (U.S.) Department of Homeland Security, Immigration and Customs Enforcement, Homeland Security Investigations (HSI), and have been so employed for approximately 8 years. I am presently assigned to a group that among other areas, is responsible for conducting investigations relating to commercial fraud and intellectual property rights violations.

2. This affidavit is submitted in support of the annexed criminal complaint charging Raymond WHELAN and David NICHOLS with violations of Title 18, United States Code, Section 2320, Trafficking in Counterfeit Goods or Services; Title 18, United States Code, Section 542, Entry of Goods by Means of False Statement and Title 18, United States Code, Section 371, Conspiracy.

3. I am familiar with the information contained in this affidavit based upon my participation in the investigation, my review of documents obtained as part of this investigation, information provided to me by other law enforcement officers, and information provided to me

by industry experts. Because this affidavit is submitted for the limited purpose of securing a criminal complaint, it does not contain all the information which I have learned during the course of this investigation. I have set forth only those facts that I believe are necessary to establish probable cause that Title 18, United States Code, Sections 542, 2320 and 371, have been violated.

**Relevant Statutes:**

4. Based on the facts set forth in this affidavit, I respectfully submit there is probable cause to believe that violations of Title 18, United States Code, Section 542, Entry of goods by means of false statement; Title 18, United States Code, Section 2320, trafficking in counterfeit goods and Title 18, United States Code, Section 371, conspiracy has occurred.

- (A) Title 18, United States Code, Section 542 provides; Whoever enters or introduces, or attempts to enter or introduce, into the commerce of the United States any imported merchandise by means of any fraudulent or false invoice, declaration, affidavit, letter, paper, or by means of any false statement, written or verbal, or by means of any false or fraudulent practice or appliance, or makes any false statement in any declaration without reasonable cause to believe the truth of such statement, or procures the making of any such false statement as to any matter material thereto without reasonable cause to believe the truth of such statement, whether or not the United States shall or may be deprived of any lawful duties.
- (B) Title 18, United States Code, Section 2320 provides; whoever intentionally traffics in goods or services and knowingly uses a counterfeit mark on or in connection with such goods or services.
- (C) Title 18, United States Code, Section 371 provides; If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy

**FACTS SUPPORTING PROBABLE CAUSE**

5. On or about October 26, 2015, HSI Buffalo received an investigative lead from American Honda Motors Co., Inc. hereafter referred to as "Honda", regarding counterfeit airbags being sold by an eBay seller utilizing the name *Rayscarparts71*. A manufactures test purchase was made by Honda and the results provided by Honda were as follows:

On August 20, 2015, a Honda Accord Driver Air Bag, Left Steering Black was purchased for \$395.00 from eBay user *Rayscarparts71*. The business contact information contained on the shipping receipt and business card supplied by *Rayscarparts71* indicated that the airbag was sold by **Raymond WHELAN**, PEQ Auto Parts, 125 Beale Avenue, Buffalo, NY 14225. The packaging of the aforementioned airbag was not consistent with a genuine, properly packaged and shipped airbag sent from Honda. Specifically noted was that the Hazardous Materials Table (49 C.F.R. § 172.101) and the Hazardous Materials Transportation Act that govern the safe shipment of airbags was not followed. Honda noted that the exterior of the packaging was not labelled with the proper shipping label indicating that the contents of the package contained an airbag and the airbag itself was wrapped in multiple layers of cellophane and bubble wrap instead of the required antistatic bag.

6. Counterfeit markers on the airbag purchased by Honda were provided by Honda as follows:

- A) The airbag had a serial number (Z2N110010SF), known by Honda to be counterfeit, affixed to the body of the airbag.
- B) The airbag had labelling that is not consistent with genuine Honda airbag labelling.
- C) The airbag had connectors that are not consistent with genuine Honda airbag connectors.

7. Therefore, it was determined by Honda that the Honda Accord Driver Air Bag, Left Steering Black purchased from *Rayscarparts71* was counterfeit.

**Undercover Purchase 1:**

8. Open source searches of the airbags advertised for sale on the eBay store operated by *Rayscarparts71* showed that there were several other airbags listed for sale that contained photos of the same counterfeit serial number Z2N110010SF. All of the airbags are listed as genuine used airbags. On or about November 5, 2015, your affiant made an undercover purchase of an airbag from eBay user *Rayscarparts71*. The following relays the details of the airbag purchased:

Date Purchased:	11/5/2015
Item Purchased:	2011 2012 2013 Mitsubishi Outlander Driver Wheel Airbag Left Air Bag
eBay Item ID:	161853338753
Transaction ID:	1326440350006
Cost:	\$299.00
PayPal Transaction Receipt ID:	0863-0311-1882-4607
PayPal User ID:	Punchlineauto@yahoo.com

9. The eBay advertisement listed the location of the airbag as Zephyrhills, Florida. On Friday, November 6, 2015, eBay shipping details for the purchased airbag show that the part was shipped FedEx Ground from Cheektowaga, NY, not Zephyrhills, FL. The airbag was shipped to an address in Cleveland, OH as the eBay advertisement indicated the following:

“\*\*\*NY Residents\*\*\*. If you purchase, you MUST have an address outside of

New York State for us to ship to (no shipping or customer pickup in New York). We can not make any exceptions to this rule.”

10. All airbags listed for sale on the aforementioned eBay store indicate the same language in regards to the airbag location being Zephyrhills, FL and New York State shipping/sales restrictions.

11. On November 17, 2015, your affiant picked up a box containing one Mitsubishi Airbag from the address in Cleveland, OH. The following details the seizure of the box and subsequent inspection of the contents inside:

The airbag was wrapped in multiple layers of cellophane and bubble wrap. Per the Hazardous Materials Table (49 C.F.R. § 172.101) and the Hazardous Materials Transportation Act that govern the safe shipment of airbags, an antistatic bag is required but was not used. In addition, the package exterior was not labelled with the proper shipping label that is required when shipping airbags. The shipping receipt and business card provided in the shipment showed that the seller is Ray Whelan, 125 Beale Ave, Cheektowaga, NY 14225, phone number 716-566-8746 and business name PEQ Auto Parts. The airbag contained the Mitsubishi logo on the front. On the back of the airbag was a sticker affixed with a serial number of Z2N110010SF, which is the same serial number listed on the Honda airbag purchased by Honda on August 20, 2015.

12. Multiple pictures of the back and front of the airbag were taken and sent to a representative at Mitsubishi Motors North America, hereafter referred to as Mitsubishi, for verification of authenticity. Mitsubishi confirmed that the airbag purchased by HSI on November 5, 2015 was not a genuine Mitsubishi airbag.

**Undercover Purchase 2:**

13. On December 14, 2015, your affiant made a second undercover online purchase of an airbag from eBay user *Rayscarparts71*. The following relays the details of the airbag purchased:

Date Purchased: 12/14/15  
Item Purchased: 2006-2011 Honda Civic Driver Wheel Airbag Left Air Bag  
EBay Item ID: 161916194733  
Transaction ID: 1344321829006  
Cost: \$295.00  
PayPal Transaction Receipt ID: 4777-2521-7798-5439  
PayPal User ID: Punchlineauto@yahoo.com

14. The eBay advertisement listed the location of the airbag as Zephyrhills, Florida. On Friday, December 15, 2015, eBay shipping details for the purchased airbag show that the part was shipped FedEx Ground from Cheektowaga, NY, not Zephyrhills, FL. The airbag was shipped to an address in Cleveland, OH as the eBay advertisement indicated the following:

“\*\*\*NY Residents\*\*\*. If you purchase, you MUST have an address outside of New York State for us to ship to (no shipping or customer pickup in New York). We can not make any exceptions to this rule.”

15. All airbags listed for sale on the aforementioned eBay store indicate the same language in regards to the airbag location being Zephyrhills, FL and New York State shipping/sales restrictions.

16. On December 23, 2015, your affiant picked up a box containing one Honda Airbag from the address in Cleveland, OH. The following details the seizure of the box and subsequent inspection of the contents inside:

The airbag was wrapped in multiple layers of cellophane and bubble wrap. Per the Hazardous Materials Table (49 C.F.R. § 172.101) and the Hazardous Materials Transportation Act that govern the safe shipment of airbags, an antistatic bag is required but was not used. In addition, the package exterior was not labelled with the proper shipping label that is required when shipping airbags. The shipping receipt and business card provided in the shipment showed that the seller is Ray Whelan, 125 Beale Ave, Cheektowaga, NY 14225, phone number 716-566-8746 and business name PEQ Auto Parts. The airbag contained the Honda logo on the front. On the back of the airbag was a sticker affixed with a serial number of Z2N110010SF, which is the same serial number listed on the Honda airbag purchased by Honda on August 20, 2015 and the Mitsubishi airbag purchased by HSI on November 5, 2015.

17. Multiple pictures of the back and front of the airbag were taken and sent to a brand representative at Honda for verification of authenticity. Verification from Honda indicated that the airbag purchased on December 14, 2015 was in fact a counterfeit airbag not manufactured by Honda.

**eBay/PayPal Summons:**

18. On November 6, 2015, your affiant sent an administrative summons to eBay/PayPal for information relating to the eBay username *Rayscarparts71*. On November 12, 2015, your affiant reviewed the response that was received from eBay/PayPal. The information received indicated the following:

The eBay store associated with user name *Rayscarparts71* is registered to **Ray WHELAN**, DOB: 8/29/XXXX, 125 Beale Avenue, Cheektowaga, NY 14225. Additional information in the subpoena return shows that



the associated phone number is 716-566-8746 and the associated email address is **punchlineauto@yahoo.com**.

The PayPal account associated with the email address **punchlineauto@yahoo.com** is registered to **Raymond WHELAN** utilizing Discover credit card XXXX-XXXX-XXXX-9343. The name on the credit card is **Raymond P. WHELAN**.

19. On February 26, 2016, your affiant sent an administrative summons to PayPal to update sales information relating to the eBay username *Rayscarparts71*. On April 12, 2016, your affiant reviewed the response that was received from PayPal. The PayPal account documented a total of 403 transactions relating to airbag sales between February 2015 and March 2016. The approximate total sales amount of the 403 airbags is \$156,057.

20. Records received from eBay/PayPal show that the PayPal account registered to **Raymond WHELAN** was accessed through the internet protocol address 172.101.82.16 in service at 18:40:15 PDT on November 5, 2015 and 9:06:32 PDT on November 4, 2015. This internet protocol address was determined to be registered to Time Warner Cable.

**Shipments seized by US Customs and Border Protection**

21. On January 14, 2016, United States Customs and Border Protection (CBP) in Rochester, NY detained two DHL Express packages (HAWB# 8313949582 and HAWB# 6392720913) addressed to Punchline Auto Parts, 3149 Walden Avenue, Depew, NY 14043, consignee is **Ray WHELAN**. The packages were sent from Shenzen WHELAN RAY Co. Ltd., Flat 1 No. 3 Bldg Fuzhong Ind, Hong Kong, HK. The packages were manifested as car steering wheel samples valued at \$70. Upon inspection of the two packages by CBP officers, it

was determined that the packages contained a total of 31 airbags from various auto manufactures as follows;

13 - Honda

4 - Nissan

5 - Toyota

3 - Mazda

2 - Acura

3 - Subaru

1 - Hyundai

**31 Total**

22. Honda, Nissan, Toyota, Mazda, Acura, Subaru and Hyundai were trademarks registered with the United States Patent and Trademarks Office during the periods described herein, and did not authorize the defendants to utilize their trademarks.

23. On January 28, 2016, CBP Rochester, New York seized the two shipments (seizure # 2016SZ003751301 and # 2016SZ003746001) based on the fact that six (6) of the seven (7) rights holders of the airbags confirmed that the airbags were in fact counterfeit. Seizure notifications indicating that the airbags contained counterfeit trademarks were sent to Ray WHELAN, Punchline Auto Parts, 3149 Walden Avenue, Cheektowaga, NY 14043. On February 5, 2016, the USPS letters containing the seizure notifications were delivered to 3149 Walden Avenue, Cheektowaga, NY 14043 by regular mail and the certified return receipts were signed for by an adult at 3149 Walden Avenue, Cheektowaga, NY 14043 confirming the delivery.

24. Additional shipments on January 18, 2016 and January 26, 2016 containing airbags with logos from various auto manufacturers were detained by Customs and Border Protection (CBP) in Rochester, NY. DHL Express packages (HAWB# 6392726804, HAWB# 6392729486 and HAWB# 6392761561) addressed to Punchline Auto Parts, 3149 Walden Avenue, Depew, NY 14043, consignee is **Ray WHELAN**. The packages were sent from Shenzhen WHELAN RAY Co. Ltd., Flat 1 No. 3 Bldg Fuzhong Ind, Hong Kong, HK. The packages were manifested as auto parts valued at \$70 and a car steering wheel sample valued at \$70. Upon inspection of the packages by CBP officers, it was determined that they contained a total of 42 airbags from various auto manufactures as follows;

- 18 - Honda
- 5 - Nissan
- 5 - Toyota
- 6 - Mazda
- 4 - Acura
- 4 - Subaru
- 42 Total**

25. Several of the airbags in the packages (HAWB# 6392726804, HAWB# 6392729486 and HAWB# 6392761561) detained by CBP have the same serial number (Z2N110010SF) that has been used on other counterfeit airbags. In addition, this is the same serial number that was located on the back of the two (2) airbags purchased by HSI on November 5, 2015, and December 14, 2015.

26. On February 1, 2016, HSI Buffalo requested that Customs and Border Protection (CBP) Rochester authorized a "pass through" of DHL Express packages HAWB# 6392726804 and HAWB# 6392729486 sent from Shenzhen WHELAN RAY Co. Ltd., Flat 1 No. 3 Bldg

Fuzhong Ind, Hong Kong, HK. CBP Rochester authorized the pass through request and on February 9, 2016, released DHL Express packages HAWB# 6392726804 and HAWB# 6392729486 to DHL for delivery to Ray WHELAN, Punchline Auto Parts. On February 10, 2016 DHL confirmed that packages HAWB# 6392726804 and HAWB# 6392729486 were delivered to Ray WHELAN, Punchline Auto Parts, 3149 Walden Avenue, Depew, NY 14043.

On February 11, 2016, your affiant reviewed the eBay store *Rayscarparts71* and discovered that the number of airbags listed for sale increased from 2 airbags on February 9, 2016 to 15 airbags on February, 11, 2016.

27. On February 16, 2016, the eBay store for *Rayscarparts71* was viewed again by your affiant and it was noted that all of the airbags listed for sale on this date, show pictures depicting an airbag with a sticker affixed to the back of known counterfeit serial number Z2N110010SF. Additionally, all of the airbags listed for sale are represented as “used” airbags. Additional descriptions of the airbag condition were as follows:

- a) “Very good driver wheel airbag. Has NOT been deployed and is NOT repacked or rebuilt.”
- b) “Excellent driver wheel airbag. Never deployed.”

28. All of the airbags viewed by your affiant on the eBay store of *Rayscarparts71* indicate that the airbag is located in Zephyrhills, Florida. All of the other types of car parts viewed by your affiant listed on *Rayscarparts71* indicate that the part located in Buffalo, New York. In addition, all of the airbags viewed by this affiant on the eBay store of *Rayscarparts71*

contain the shipping restrictions that state “\*\*\*NY Residents\*\*\* if you purchase you must have an address outside of New York State for us to ship to (no shipping or customer pickup in New York). We cannot make any exceptions to this rule.”

29. In 2013, the New York State Counterfeit Airbag Prevention Act was passed and signed into law making it a criminal offense punishable in New York State to make, offer to distribute or distribute, offer to sell or sell a counterfeit or non-functioning airbag.

30. Based upon my training and experience, individuals who traffic in counterfeit goods over the internet for a sustained period of time will often continue to obtain additional counterfeit goods in an effort to continue the criminal enterprise. On January 14, 2016, your affiant received notification from U.S. Customs and Border Protection, Rochester, New York that two (2) DHL shipments from Hong Kong were detained containing airbags destined to **Raymond WHELAN**. The manifests on both shipments stated that the contents of the packages were car steering wheel samples, when in fact the packages contained airbags. The airbags in these two shipments were determined to be counterfeit by the respective auto manufacturers and were subsequently seized by U.S. Customs and Border Protection, Rochester, NY.

#### **Search Warrants**

31. On February 25, 2016, HSI Buffalo agents, pursuant to a search warrant authorized by the United States District Court for the Western District of New York, conducted

search warrants at 3149 Walden Ave, Depew, NY 14043 and 125 Beale Avenue, Cheektowaga, NY 14225. During the search warrants the following items were seized:

- 31 airbags
- Airbag accessory/repair kit
- 4 hard drives
- 1 HP Tower computer
- 1 HP Laptop
- Miscellaneous business documents.

32. On February 26, 2016, multiple pictures of the front and back of the airbags seized during the search warrants were sent to the rights holders of the brand logos on the front of the airbags. All of the rights holders determined that the airbags seized during the search warrant were counterfeit.

33. Within the miscellaneous documents seized during the search warrants, a binder containing multiple pages of an airbag master price list separated by brand and supplier (Jashine/Xingtai/Lucy) was found. The binder also contained a pocket with multiple sheets of "warning label" stickers that would appear on the back side of the airbag. In addition, wire transfer request forms from **Raymond WHELAN** to **GSC Services LLC** and commercial invoices from GSC Services LLC listing the quantity and price of each airbag were also present. Paper copies of emails sent between [punchlineauto@yahoo.com](mailto:punchlineauto@yahoo.com) and [gscservices@hotmail.com](mailto:gscservices@hotmail.com) discussing airbag orders were found.

34. A forensic examination of the computer and laptop seized during the search warrants revealed various email conversations between gscservices@hotmail.com, punchlineauto@yahoo.com and tgbrodene@hotmail.com.

35. The investigation has revealed that the services at Hotmail.com is an e-mail account registered to Dave Nichols and that tgbrodene@hotmail.com is an e-mail account registered to Timothy Brodene. On June 23, 2015, an email message was sent from tgbrodene@hotmail.com to gscservices@hotmail.com and punchlineauto@yahoo.com. The message reads as follows:

From: tgbrodene@hotmail.com  
To: punchlineauto@yahoo.com; gscservices@hotmail.com  
Subject: payment for air bags  
Date: Tue, 23 Jun 2015 15:45:02

Dave, I understand you have an order for approx. \$10,000 (100 units) in air bags. It is my understanding that you have made the initial deposit of 30%. I will cover this shipment financially. Send me the terms and timing. Also if you would send me the routing numbers for wire transfer it would make it easy for me. Hope all is well in Riceland. Be in touch.

Tim

36. On June 23, 2015, the response email from gscservices@hotmail.com reads as follows:

From: gscservices@hotmail.com  
To: tgbrodene@hotmail.com; punchlineauto@yahoo.com  
Subject: payment for air bags  
Date: Tue, 23 Jun 2015 22:13:51

Hey Tim,  
I'm still working on a couple of numbers yet, but I will have a final invoice in the next couple days. The balance will be down around \$6700...we're probably a couple weeks

away from needing the balance. I will send everything as soon as I know.

For future reference, the following is my bank information:

JPMorgan Chase Bank, N.A.  
Marysville Chase Branch  
406 W. 5<sup>th</sup> St.  
Marysville, OH 43040  
Account: XXXXX6397  
Routing: 044000037  
GSC Services LLC  
Marysville, OH 43040

Later.....

Dave

**David E. Nichols**  
**GSC Services LLC**  
Shanghai, China  
China: 011-86-159-0078-4594  
USA Message Center: 1-937-243-2589  
[www.gscchina.com](http://www.gscchina.com)  
"your Global Sourcing connection"

37. An open source search of the web address [www.gscchina.com](http://www.gscchina.com) revealed the following contact information:

**Direct Component Acquisition for North American Customers:**

**David E. Nichols**  
China Office: 86-159 0078 4594 / US Message Service: 937-243-2589  
[gscservices@hotmail.com](mailto:gscservices@hotmail.com)  
Skype: *dnichols2*

**Supplier Quality Audit and Development**

Kevin Coleman  
China Office: 86-137 7312 9187  
[kevin@gscchina.com](mailto:kevin@gscchina.com)  
Skype: kevin.de.wayne.coleman



**Global Sourcing Consulting for North American Customers:**

**David E. Nichols**

China Office: 86-159 0078 4594 / US Message Service: 937-243-2589

[gscservices@hotmail.com](mailto:gscservices@hotmail.com)

Skype: *dnichols2*

38. On June 25, 2015, an email from [tgbrodene@hotmail.com](mailto:tgbrodene@hotmail.com) to [punchlineauto@yahoo.com](mailto:punchlineauto@yahoo.com) and [gscservices@hotmail.com](mailto:gscservices@hotmail.com) discussing potential air bag sales and setting up an LLC reads as follows:

From: [tgbrodene@hotmail.com](mailto:tgbrodene@hotmail.com)

To: [punchlineauto@yahoo.com](mailto:punchlineauto@yahoo.com); [gscservices@hotmail.com](mailto:gscservices@hotmail.com)

Subject: AIR BAGS

Date: Thu, 25 Jun 2015 19:19:11

I've done a little research on the air bag recall in USA & world. Boys we got a tiger by the tail!!! There is over 18 million cars and trucks in the USA alone that need to be replaced. Dodge and Chrysler fro 2004 to 2010 model year has 4,750,000 units. Honda has 6,280,000 units from 2001 to 2011. Toyota has 2,915,000 from 2002 to 2007 and Nissan has 1,091,000 units from 2001 to 2004. The industry started to replace bags in Oct of 2014. That means that we got 3 to 4 years to make some real money.

Dave... We need a reliable, high quality source, maybe 2 or 3. Price and costs is going to get real competitive soon. Right now I think there is a capacity problem in airbag production in Japan (I don't think they would outsource) trying to keep plants running on new cars and replacement bags.

Ray... You need to find out how many different air bags are needed to cover the above list. It appears that the need is primarily driver side air bags. We need to know how much part stores are charging for each part. Check your local NAPA, Advance and Autozone stores. We also need to know what you are currently selling them for.

This could get big quick and distribution will need to be addressed once we see how fast these first bags move. We will need to sell ditributors. Ray I suggest you find an attorney in Florida and find out cost to set up a LLC. By using Florida we avoid New York Taxes. The LLC should be for 5 share holders. Just a suggestion but I would set it up as follows

President Ray 70% owner (with your father if you want him in) Erin should have 10% of your 70%

Vice Pres Treasury Ray

Vice Pres Procurement Dave Nichols 15% in addition to normal fees and costs  
Secutary Tim Brodene 15% (does not include interest of venture capital@20%)

All per centages would dictate pretax profit ditribution. Air bags need to be separate company from other parts you sell.

I would like to have your input on any changes.

Boys. Game on!!!!

Tim

39. On June 27, 2015, and email from punchlineauto@yahoo.com to gscservices@hotmail.com discussing the air bag order and LLC reads as follows:

From: punchlineauto@yahoo.com  
To: gscservices@hotmail.com  
Subject: Re: ok, last time !!!!!!!  
Date: Sat, 27 Jun 2015 14:55:37

Hi Dave,  
The numbers look good. The only thing I'd like to change is-  
#24= qty 6  
#25= qty 4  
Everything else looks great!  
Am working on LLC and have liability insurance at 1 million/2 million  
Will keep you updated.  
Thank you,  
Ray

40. On July 4, 2015 an email from gscservices@hotmail.com to tgbrodene@hotmail.com and punchlineauto@yahoo.com discussing final payment for the air bag order states in part:

"Ok, now is the time....amount is \$6,427.53 (as per the attached invoice). Please send to the bank as shown on the invoice."

41. On July 7, 2015, Chase Bank records for account number XXXX6397 belonging to **David NICHOLS** show a wire transfer deposit from sender Timothy BRODENE in the amount of \$6,427.53.

42. On July 22, 2015, an email chain including **David NICHOLS** ([gscservices@hotmail.com](mailto:gscservices@hotmail.com)), **Raymond WHELAN** ([punchlineauto@yahoo.com](mailto:punchlineauto@yahoo.com)) and Josaia Evancho ([josaia@jashine.com.en](mailto:josaia@jashine.com.en)), Jashine Traading Company, which the investigation has shown is one of the airbag suppliers located in China, stated the following:

*\*Note: all replies and forwards are conducted on the same day (7/22/2015)*

Email from [josaia@jashine.com.en](mailto:josaia@jashine.com.en) to [gscservices@hotmail.com](mailto:gscservices@hotmail.com) titled *Urgent Commercial Invoice*;

“Dear Dave Nichols,

About this commercial invoice, you know your country forbidden the airbag and airbag cover export and import. If you need to show airbag and airbag covers, it might be risky, hope you can understanding.

About show the correct price, this is declared value, if you need to show correct price, it might be collect a lot of tax. For avoid waste unnecessary cost, hope you can understanding again.

Looking forward to receiving you early reply.

Best Regards  
Josaia Evancho  
Jashine Trading Co., LTD”

43. The reply from gscservices@hotmail.com to josaia@jashine.com.en stated:

"You think maybe this is something you should have mentioned a while ago?

Dave  
Dave Nichols  
GSC Services LLC"

44. The reply from josaia@jashine.com.en to gscservices@hotmail.com stated:

"I have many customers from your country, they are also bought a lot of airbag, we always show this message. Also we show (Metal/plastic Base).

I am kindly suggest you, you should be show car steering wheel, because airbag and airbag cover import and export is forbidden in your country, and always forbidden. If you need show airbag and airbag cover, it might be in custody, if you show steering wheel or Metal/Plastic Base, it's safe to pass your country custom clearance. Hope you can understanding.

We sell cover for some years, our agent and we have rich experience in this field, we know how to do show this message in commercial invoice.

Look forward to receiving you early reply.

Best regards,  
Josaia Evancho  
Jashine Trading Co. LTD."

45. The reply from gscservices@hotmail.com to josaia@jashine.com.en stated:

"OK, then handle accordingly.

Have you ever submitted product to US testing agency to get approved to import into the US?

Dave  
David E. Nichols  
GSC Services LLC."

46. This email was then forwarded on the same day from gscservices@hotmail.com to punchlineauto@yahoo.com.

"Ray..... I got this disturbing note from our airbag supplier today!

Can you check your sources and see if there is an export problem for airbags? I am checking with my broker, and also some other manufacturers here.

Get back to me as soon as you can.....I am trying to figure out how to export/import them without this being an issue.

Dave  
David E. Nichols  
GSC Services LLC"

47. The reply from punchlineauto@yahoo.com to gscservices@hotmail.com reads:

"Hi Dave

Well that is a problem. Please keep me updated. Let me know if there is anything I can do from my end.

Ray"

48. An additional reply from punchlineauto@yahoo.com to gscservices@hotmail.com reads:

"I will speak with the guy who had the first batch and see what he had to do.

Ray"

49. On July 22, 2015, an email thread between Raymond WHELAN ([punchlineauto@yahoo.com](mailto:punchlineauto@yahoo.com)) and Timothy Brodene ([tgbrodene@hotmail.com](mailto:tgbrodene@hotmail.com)) reads as follows:

"From: [punchlineauto@yahoo.com](mailto:punchlineauto@yahoo.com)

To: [tgbrodene@hotmail.com](mailto:tgbrodene@hotmail.com)

Hi Mr. B

Update-Airbags

1) Rec'd an email from Dave today regarding shipment and some possible complications regarding customs clearance. We're working on the issue and will keep you apprised of the progress.

2) Staying busy with this and the big move. Will be out of the building by 7-31 and hopefully in Fla. by November.

3) Do not have the LLC yet but will get it done. Still working on the details and specifics but should have it squared away in a couple weeks.

I think that's it for now. Will keep you in the loop regarding customs and anything else you might need to know.

Have a great day!

Ray"

50. The reply from Timothy Brodene ([tgbrodene@hotmail.com](mailto:tgbrodene@hotmail.com)) to Raymond WHELAN ([punchlineauto@yahoo.com](mailto:punchlineauto@yahoo.com)) reads:

"Don't sign the LLC until we talk."

51. On August 13, 2015, an email from [punchlineauto@yahoo.com](mailto:punchlineauto@yahoo.com) to Timothy Brodene reads:

"Hi Mr. B,

I hope all is well with you.

Update:

Some of the airbags (20 pcs.) have arrived and we are already selling them. Dave and I are working together to get the rest here via Fed-Ex or UPS. We should have the remainder of the order within 2 weeks. Will call you over the weekend or you can call me if you have any questions.

Not much else going on. Staying busy with the business and trying to get to FLA.

That's about it.  
Have a great day!  
Ray"

52. On September 8, 2015, punchlineauto@yahoo.com sent an email to gscservices@hotmail.com to discuss another shipment:

From: punchlineauto@yahoo.com  
To: gscservices@hotmail.com  
Subject: Airbags  
Date: Tue, 8 Sep 2015 22:47:48

Good morning Dave,

We received the 4<sup>th</sup> shipment and everything looks good! Awaiting the 5<sup>th</sup> and final shipment for the first order.

It's been a great month! We have sold 50 units totaling approximately 20K! Would like to place another order asap as we are quickly selling out of these.

I don't know if you've talked with Tim recently but, apparently he got beat out of 500K on a gold deal that went south. Don't know for sure when/if he will be interested in another investment with me but I am prepared to pay for the next order on my own until he can deal with this horrible setback.

I know it's a PITA to get these shipments via FedEx but it would be great if we could place the second order though Jashine and possibly a subsequent or concurrent order via Jackson.

53. On September 8, 2015, Dave Nichols <gscservices@hotmail.com> responded to Ray Whelan <punchlineauto@yahoo.com> stating in part:

"Just a follow up as I am now on the computer (typing much easier).....

It isn't the PITA that bothers me, it's that the good might be confiscated and I'd hate to lose money on the deal. I ordered the 85 pcs from Jashine just now, and will send you new pricing from Lucy soon."

"I will send an e-mail later, explaining that I think we should a few samples from Lucy, and an order on the ater for a proper stocking inventory. What do you think about me sending a copy to you and Tim (he won't know you've told me about the gold deal), and see what his response is. For a water shipment, I'm thinking in the 250-500 range, \$35-\$70k. You might want to be thinking about your top 20 in the event he says release the order."

54. On September 8, 2015, the e-mail response from punchlineauto@yahoo.com to gscservices@hotmail.com states, in part: "You have made a valid point regarding shipping. In my excitement I forgot about the whole confiscations thing."

55. On September 9, 2015, the email response from gscservices@hotmail.com to punchlineauto@yahoo.com states in part: "Ray....new and complete list from Lucy, and all items include the covers. Look it over and see if the items you need now are there, and also about an ocean shipment behind it. As for Jashine, they are balking, said there is some issue right now (might have gotten caught, they won't say). I asked them to reconsider with us taking the risk, but not sure they will. Talk to you soon, Dave."

56. On November 4, 2015, an email forwarded from gscservices@hotmail.com to punchlineauto@yahoo.com discussing how the air bags have to be shipped from the supplier "Lucy" reads as follows:

From: info@airbag-covers.com  
To: gscservices@hotmail.com  
Subject: Re:RE: we need to send the airbags to you separately, not complete  
Date: Wed, 4 Nov 2015 09:21:18

Dear Dave,  
Good evening!  
How are you?



This time we need to send you these airbags separately (1 airbag have 2 parts, one is airbag cover and another is the below of the airbag cover)  
Because in China someone because sell the complete airbags caught by the police, prison, and spent more than ten ten thousand yuan.  
And you also know selling airbags in USA also illegal, for mutual security, we can only develop the cartridge removed for you, please understand.  
Please tell your customer about this.  
Regards,  
Lucy

### Skype Chats

57. A forensic examination of the computer and laptop seized during the search warrants on February 25, 2016 revealed various *Skype* chats between "*rwhelan31 (rwhelan31)*", "*dnichols2 (Dave Nichols)*" and "*airbagcovers*".

58. On September 11, 2015, a *Skype* chat between *dnichols2 (Dave Nichols)* and *rwhelan31 (rwhelan31)* states in part:

**dnichols2 (Dave Nichols):** is the propellant inside the air bag assembly, or is the deployment triggered some other way? Guess I don't understand a lot about how they work

**rwhelan31 (rwhelan31):** I believe the propellant is inside. I've seen YouTube videos of people putting 12 volts to them and blowing them up. I'm sure it would take a hell of a static charge to make one of these go off.

**dnichols2 (Dave Nichols):** well I asked Lucy what kind of propellant was used, and her response was: Lucy – Air Bags 5:58:04 PM this is only complete airbag when your customers use they will know that we don't do the propellant

**dnichols2 (Dave Nichols):** she says no propellant.....but earlier said: only have airbag cover, airbag, inflator, bracket no propellant

**dnichols2 (Dave Nichols):** so I assume something other than the old gas used, which now complies with US requirements

**rwhelan31 (rwhelan31):** So...the prices she gave us are for airbags with covers that comply with the new US requirements?

**rwhelan31 (rwhelan31):** This is a good thing.

**dnichols2 (Dave Nichols):** Lucy – Air Bags 6:26:25 PM Airbag actually made of solid rocket booster similar system to inflate, sodium azide ( $\text{NaN}_3$ ) and potassium nitrate ( $\text{KNO}_3$ ) rapidly react to produce a lot of hot nitrogen gas, this gas will airbag inflator, balloon expandable when out of the steering wheel or dashboard

**dnichols2 (Dave Nichols):** Sodium azide ( $\text{NaN}_3$ ) and potassium nitrate ( $\text{KNO}_3$ ) react to produce a large amount of hot nitrogen gas, this gas will be inflated airbag,

**rwhelan31 (rwhelan31):** Not to presume you know the answer but what does this mean for us?

**dnichols2 (Dave Nichols):** not a clue...but she says: we have shipped to USA before, he is our old customers he always buy airbag covers and airbags from us, so we can ship to USA don't worry.

59. On November 18, 2015, a Skype chat between dnichols2 (Dave Nichols) and rwhelan31 (rwhelan31) regarding a message from the airbag supplier "Lucy" in China states in part:

**dnichols2 (Dave Nichols):** note from customer just now says: Lucy – Air Bags 6:28:34 PM if you don't want to do order, so we will return your money for the cost of repair in the future all will finished like the first time. Lucy – Air Bags 6:29:38 PM Since this time, our customers in the United States arrested by the police, so it's open for you to ship. Lucy – Air Bags 6:32:55 PM Because we have customers in the United States was arrested, so this gives you the demolition of development, you understand, we are afraid that you were captured, if you do not worry, we caught, then we will send you complete in the future forever

**rwhelan31 (rwhelan31):** Hmmmm....

**rwhelan31 (rwhelan31):** will need to sleep on that, I hope you'll keep the faith. When you're here, we'll brainstorm a solution. There has to be way to get permissions we need. If not, maybe another product(s) that we can look at. Take it easy, take it in stride sometimes the best solution, is to let it all slide. Have a great day my friend. Ray

**dnichols2 (Dave Nichols):** I let Lucy send her way, that was probably a mistake. Seems Bernd can ship ok....maybe still a risk, but still not been a problem. We need to be looking at more from Jashine I guess...and will the timing issues getting things done and out of there, should be looking at the next shipment

60. Beginning on November 18, 2015, a Skype chat from dnichols2 (Dave Nichols) and rwhelan31 (rwhelan31) regarding the airbags being sent in pieces from the supplier that now require assembly. The discussion states in part:

**rwhelan31 (rwhelan31):** good morning Dave, after a more thorough search of the packages, the hardware appears to be here. I'm sorry you have to deal with this kind of stuff. I'm sure neither one of us expected these to show up in a thousand pieces....literally

**rwhelan31 (rwhelan31):** I was able to assemble some of the parts today. It's amazing how these are built. I don't see how OEM could be significantly better in comparison. These seem to be of good quality. I sent an email to you just a little while ago. Just check it out when you get a chance.

**dnichols2 (Dave Nichols):** no idea why the hell they sent unassembled product.

.....

**rwhelan31 (rwhelan31):** That is ridiculous. I tried to put some together but will need some instruction on the correct process. These are life saving devices after all.

**dnichols2 (Dave Nichols):** your e-mail has not arrived...not sure why...try sending to [gsvsvcs@yahoo.com](mailto:gsvsvcs@yahoo.com)

**rwhelan31 (rwhelan31):** you mean gscsvcs@yahoo?

**dnichols2 (Dave Nichols):** yes, sorry, typing not so good this morning

.....the conversation resumes on November 24, 2015

**rwhelan31 (rwhelan31):** I was able to get my hands on an OEM bag and it is NOT assembled the way the Lucy video instructed us to do it. The OEM bag does have a smaller inflator that mounts on the top of the frame and is not sandwiched between the plates. To be fair, my mechanic friend thinks that assembling them the way we were instructed to do it "may be fine" but as he put it, "they put millions into R&D of these things and if they thought it ok to assemble them another way, they would have done it." Bottom line, I have assembled one with their instruction and it just may work. I can't see why it wouldn't but....I'm not an airbag expert.

61. Beginning on January 15, 2016, a Skype chat between **dnichols2** (Dave Nichols) and **rwhelan31** (**rwhelan31**) regarding packages being held up with customs states in part:

**rwhelan31** (**rwhelan31**): just an update. We received on box on Tuesday and were scheduled to get 2 more yesterday. DHL has notified me that the two boxes scheduled for yesterday were taken by customs for inspection. In your experience, is this something I should be worried about?

62. On January 16, 2016, a Skype chat between **dnichols2** (Dave Nichols) and **rwhelan31** (**rwhelan31**) regarding packages being held up with customs resumed and states in part:

**dnichols2** (Dave Nichols): let's just wait and see how they handle it

**dnichols2** (Dave Nichols): I think we should change the address on the next one, maybe to your name instead of the company name, and to your home address instead of the warehouse.

**dnichols2** (Dave Nichols): not sure, but customs is never something to be excited about

**dnichols2** (Dave Nichols): or maybe to your dad in Florida

**dnichols2** (Dave Nichols): let me know if you hear anything from customs. In meantime, we need some alternate addresses to ship products. We will go back to shipping every 2-3 days, not day after day.

63. On January 21, 2016, a Skype chat between **dnichols2** (Dave Nichols) and **rwhelan31** (**rwhelan31**) regarding packages being held up with customs resumed and states in part:

**dnichols2** (Dave Nichols): did you hear anything on the air bags in customs

**rwhelan31** (**rwhelan31**): Ok. We received 1 box today. It is the middle box of 5 shipments that we have been waiting for and should have been delivered already.

**dnichols2 (Dave Nichols):** was it one of them that was held up in customs

.....

**dnichols2 (Dave Nichols):** how about I send some to you, and some to your brother

**dnichols2 (Dave Nichols):** would that be any problem

**rwhelan31 (rwhelan31):** Let's do that and we'll use his name. Scott Whelan

**dnichols2 (Dave Nichols):** my the shipping guys here are idiots

**dnichols2 (Dave Nichols):** ok, I don't want to have too much coming too often...I plan to ship everything through Bernd in Shanghai, but we'll split between shipping companies, and addresses

**rwhelan31 (rwhelan31):** This is just a thought but, if we used FedEx we would have the option to hold the packages for pick up at a Fedex location.

**dnichols2 (Dave Nichols):** and always leave a one day gap...or 3-4 boxes a day, and going to try to keep an inventory ready to ship in Shanghai

**rwhelan31 (rwhelan31):** I like the plan

64. On January 23, 2016, a Skype chat between dnichols2 (Dave Nichols) and rwhelan31 (rwhelan31) regarding packages being held up with customs resumed and states in part:

**rwhelan31 (rwhelan31):** Hi Dave, I just got a text from DHL stating that another item will be delivered on Tuesday. I was told by customs that this address has been flagged so it's probably going to be gone. Will attempt to change the delivery address to my house. We shall see if that works. Again, that US Customs and Border Patrol agency right in the DHL warehouse is a bit of a problem for us.

**rwhelan31 (rwhelan31):** Update, I revised the shipping address so the package will be delivered to my home. Will let you know of that arrives on Tuesday as scheduled.

**rwhelan31 (rwhelan31):** Can we ask them to please stop sending them from Shenzhen Whelan Ray Company Ltd. They didn't do it with any of the other packages and those made it through.

**dnichols2 (Dave Nichols):** Shipped on the paperwork is: Shenzhen Whelan Ray Company Ltd.

**rwhelan31 (rwhelan31):** Yes sir

**rwhelan31 (rwhelan31):** The packages were allegedly being sent FROM RAY Whelan Co Ltd

**rwhelan31 (rwhelan31):** and...the addressee was PEQ Auto Parts, Punchline Auto Parts and Ray Whelan

**rwhelan31 (rwhelan31):** Maybe raised some flags

.....

**rwhelan31 (rwhelan31):** 99% sure it is copyright issues

**rwhelan31 (rwhelan31):** If they were willing to use FedEx and ship to me -Ray Whelan Beale Ave and my brother- Scott Whelan, Starin Ave Buffalo, it may be ok.

65. On January 26, 2016, a Skype chat between **dnichols2 (Dave Nichols)** and **rwhelan31 (rwhelan31)** regarding packages being held up with customs resumed and states in part:

**rwhelan31 (rwhelan31):** good morning sir. Just thought you should know customs has a 5<sup>th</sup> box.

**dnichols2 (Dave Nichols):** crap, any word on the real issue yet? One box shipped from Jashine to your home address

**rwhelan31 (rwhelan31):** The customs inspector I spoke to said it has something to do with copyright issues

66. On January 28, 2016, a Skype chat between **dnichols2 (Dave Nichols)** and **rwhelan31 (rwhelan31)** regarding packages being held up with customs resumed and states in part:

**rwhelan31 (rwhelan31):** after having some time to think on this...I think we should

hold all shipments, with the exception of the one Jashine just sent. Maybe a new plan is in order. Don't know what that is yet.....)

**dnichols2 (Dave Nichols):** different names might be in order

**rwhelan31 (rwhelan31):** I may have someone who can do it. I will ask and let you know.

.....

**rwhelan31 (rwhelan31):** anyway, no sense in worrying about that now. I'll just email the details regarding the new shipping address is they say yes.

67. On February 3, 2016, a Skype chat between dnichols2 (Dave Nichols) and rwhelan31 (rwhelan31) regarding packages being held up with customs resumed and states in part:

**rwhelan31 (rwhelan31):** Hey, I spoke with Tim today

**rwhelan31 (rwhelan31):** I updated him about the situation and he pretty much told me to do whatever we have to do to get them through. He also suggested LTL? Not sure if that's an option for us but wanted you to hear his thoughts

**rwhelan31 (rwhelan31):** he was saying something about customs not wanting to screw with mixed LTL loads.???

.....

**dnichols2 (Dave Nichols):** something to think about.....we could call them steering wheel parts

68. On February 9, 2016, a Skype chat between dnichols2 (Dave Nichols) and rwhelan31 (rwhelan31) regarding packages being held up with customs resumed and states in part:

**dnichols2 (Dave Nichols):** appears they are only focused on the emblem

**rwhelan31 (rwhelan31):** yes, I saw that too

**dnichols2 (Dave Nichols):** I was thinking that the covers and air bags were packed separately

**rwhelan31 (rwhelan31):** they are coming complete

**rwhelan31 (rwhelan31):** maybe unassembled "is" the way to go

**dnichols2 (Dave Nichols):** so can you offer a compromise of removing the emblems and surrendering them to customs?

**rwhelan31 (rwhelan31):** maybe

**dnichols2 (Dave Nichols):** I can send emblems separately, by fedex or ems, that will never be stopped

.....

**dnichols2 (Dave Nichols):** let me see if I can get the Richu products changed to remove the cover and emblems, they can put the covers in a separate box, and send the emblems to me and I can send to the US as samples.

**rwhelan31 (rwhelan31):** that would be great

**dnichols2 (Dave Nichols):** maybe the problem is that they are identified as Honda or Mazda, etc...so if we ship by number only (H7, etc) and remove the emblems we should be ok

**dnichols2 (Dave Nichols):** in the meantime, see if you can remove the emblems from the units to satisfy customs...and I'll work on getting things shipped separately.

**dnichols2 (Dave Nichols):** you can tell them the product wasn't supposed to have logo's, mistake on the suppliers part

69. On February 21, 2016, a Skype chat between dnichols2 (Dave Nichols) and rwhelan31 (rwhelan31) regarding packages being held up with customs resumed and states in part:

**rwhelan31 (rwhelan31):** quick question....did you get the customs letter (s) I sent? They went to gscservices.



**dnichols2 (Dave Nichols):** let me check

**dnichols2 (Dave Nichols):** no, did not get

.....

**rwhelan31 (rwhelan31):** Yes I sent you the email on February 8<sup>th</sup>. I believe I also sent it to him. Just forward it once again to GSC services at Hotmail I think.

**rwhelan31 (rwhelan31):** Okay...On page 1 the property was seized and is subjected forfeiture under provisions blah blah blah which prohibits the importation of merchandise bearing a counterfeit trademark etcetera etcetera. The property contains markings which are substantially indistinguishable from and therefore, Bear a counterfeit design/word/mark as indicated in the enclosed exhibit A

.....

**dnichols2 (Dave Nichols):** ok, then well have to work with no emblems...so let me ask, can the covers be shipped separate of the air bag assembly, then put together later? Therefore, not having the emblem on the cover when it gets to the US

**dnichols2 (Dave Nichols):** I am coming to the US on April 1, for about 10 days, I will bring a crap load of emblems with me.

70. On February 22, 2016, a Skype chat between dnichols2 (Dave Nichols) and rwhelan31 (rwhelan31) regarding packages being held up with customs resumed and states in part:

**dnichols2 (Dave Nichols):** customs still has two boxes, right?

**rwhelan31 (rwhelan31):** yes

**dnichols2 (Dave Nichols):** have they said for sure that you will not get them

**rwhelan31 (rwhelan31):** well, they said what was in the letters. I believe we have options Going to ask a customs broker tomorrow

**dnichols2 (Dave Nichols):** ok

.....

**dnichols2 (Dave Nichols):** so, with the Richu items...I can ship FedEx to you and your sister, or we can try EMS (about one month to get), or we can disassemble and I can bring the emblems

.....

**dnichols2 (Dave Nichols):** but, in the interest of getting back on track, I think the balance of this order, we should ship by FedEx

**dnichols2 (Dave Nichols):** for the small quantities of each order (that was going to come later) maybe we try EMS

**rwhelan31 (rwhelan31):** Can we set in one box FedEx to my sister and disassemble the rest? Also, how much longer would delivery take if we decide to send them unassembled?

**dnichols2 (Dave Nichols):** in the meantime, you can tell me what you think the ongoing quantities are and we will start shipping and paying, maybe 3 boxes a week until there is enough time lag to send by ocean

**dnichols2 (Dave Nichols):** I am on with Lucy now, one minute

**rwhelan31 (rwhelan31):** ok

**rwhelan31 (rwhelan31):** 3 boxes a week = about 150-160 pcs a month. Sure, that will work for a bit. As long as we come up with a reliable delivery method, that will be perfect to get things going. If there are any new 2 plug designs available from either supplier be sure to let me know.

**dnichols2 (Dave Nichols):** I was thinking they were only getting 16-20 per box

**dnichols2 (Dave Nichols):** I was planning a box every other day. However, we could do your address one day and your sister the next, etc. However, do not want to bring notice to ourselves

**rwhelan31 (rwhelan31):** Maybe just one Monday to sister and one Friday to me. Spread them out to avoid attention?

**rwhelan31 (rwhelan31):** probably not

**rwhelan31 (rwhelan31):** Hmmmm

**rwhelan31 (rwhelan31):** Week one – M-me W-sister F-me Week 2 M-sister W-me F-sister and so on

.....

**dnichols2 (Dave Nichols):** still checking to see how long to get the unassembled ones...I may have to chat again Tuesday night.

.....

**dnichols2 (Dave Nichols):** sending in just a second, talking to Lucy

**dnichols2 (Dave Nichols):** Lucy – Air Bags 10:02:28 AM no only take off the logos is ok no need remove the cover only the logo Dave 10:03:22 AM but how does the emblem reattach by my customer if the cover is on...doesn't it attach on the rear of the cover Lucy- Air Bags 10:04:46 put the emblem on the cover is so each easy

**rwhelan31 (rwhelan31):** You can spot the logo in from the front there are holes in the cover that studs on the logo go into. However, doing it this way, the logo is loose and can fall out.

**rwhelan31 (rwhelan31):** From what I can tell you put the logo on the cover and plastic weld it from the rear

**rwhelan31 (rwhelan31):** we could try a two part epoxy but, you'd have to be extremely precise cause any epoxy anywhere but beneath the emblem will show from the front.

**rwhelan31 (rwhelan31):** I've been in the auto parts business a long time Dave and I don't think I've ever seen a new car with an air bag emblem that was removable

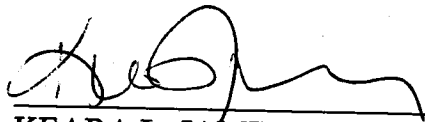
.....

**rwhelan31 (rwhelan31):** You know after thinking about this. With all of our discussions about the assembly and having them assemble them, I'm realizing that the vast majority of these bags that come assembled are basically assembled improperly anyway. The quality control clearly isn't great. What I mean is the inflators on the back tend to be oriented to the wrong way the plug colors are incorrect so I have to swap them out. It's always something to goof around with the bag to make it look like it's supposed to look as an OEM part. That's kind of why I asked for extra spare parts and said that I'd be willing to assemble them since it seems I'm disassembling 80% of them anyway to move the starter around or to reorient the plugs or remove the plastic plugs from the starter and move them in a different position.


**CONCLUSION**

WHEREFORE, I respectfully submit that the forgoing facts establish probable cause to believe that Raymond WHELAN and David NICHOLS violated Title 18, United States Code, Section 542, Entry of goods by means of false statement; Title 18, United States Code, Section 2320, trafficking in counterfeit goods and Title 18, United States Code, Section 371, conspiracy, in that during the period of at least June 2015 to present, in the Western District of New York, Raymond WHELAN and David NICHOLS did knowingly:

- A. Enter or introduce, or attempt to enter or introduce, into the commerce of the United States any imported merchandise by means of any fraudulent or false invoice, declaration, affidavit, letter, paper, or by means of any false statement, written or verbal, or by means of any false or fraudulent practice or appliance, or makes any false statement in any declaration without reasonable cause to believe the truth of such statement, or procures the making of any such false statement as to any matter material thereto without reasonable cause to believe the truth of such statement, whether or not the United States shall or may be deprived of any lawful duties in violation of Title 18, United States Code, Section 542
- B. Trafficked in goods or services and knowingly used a counterfeit mark on or in connection with such goods or services in violation of Title 18, United States Code, Section 2320.
- C. Conspired either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy in violation of Title 18, United States Code, Section 371.

  
\_\_\_\_\_  
KEARA L. JAMIESON, Special Agent  
ICE HSI SAC/Buffalo

Subscribed and sworn to before me  
this 31st day of October, 2016.

  
\_\_\_\_\_  
H. KENNETH SCHROEDER, JR.  
United States Magistrate Judge